

Testimony of the Wisconsin Dental Association (WDA)  
To the Assembly Health Committee  
2007 AB 37 - Regarding Oral Conscious Sedation in Dental Offices

Presented by Dr. Constantine Stamatelakys, WDA Past-President  
Tuesday, February 20, 2007

Good morning, Madame Chair and members of the Assembly Health Committee. As a spokesperson for the 2,900 member dentists of the WDA, I am presenting the WDA's position on AB 37 relating to the regulation of the total dosage and time between doses of medication used by dentist for the purpose of administering anesthesia in a dental office. Last spring, the members of this Committee held a public hearing and heard testimony from the WDA regarding concerns we had with small portions of a Dentistry Examining Board rule that was put forth for the purposes of creating permits for and regulating the use of anesthesia in a dental practice.

Our concerns focused on two sections which severely limited the dentist's ability to use his or her personal judgment in determining the total dosage of medication and the time between doses of medication that may be administered to a patient for purposes of sedation. Since that time, the DEB has gone forward with the implementation of the broader administrative rule but has removed the restrictive sections, pending the outcome of the legislature's review. If this bill fails, the DEB would have the authority to revisit this issue and once again include the restrictive language in their regulations on anesthesia.

It is highly unusual for a regulatory body to become so restrictive on the types of medication that can be administered by licensed health care professionals. We believe that a blanket prohibition on total dosage of medication unnecessarily hinders dentists who can safely adjust the dosage of medication in order to fit the needs of each individual patient. No two patients react to the same medication in exactly the same way; some may need more medication and some may need less. Given the variance in the reactions, it is quite possible that the maximum recommended dose (mrd) may not be effective to achieve sedation among a limited number of dental patients. Drugs used for the purposes of sedation have a very wide margin of safety and it is clear that, under direct professional management, these drugs can safely be utilized to achieve sedation levels that are appropriate for each individual patient.

The WDA hopes our position is not misinterpreted by anyone to mean that we believe that the mrd should be exceeded on a regular basis, but we do believe that there may be an occasion when that is necessary and it should be the dentist, not the state, who makes that clinical determination. The WDA remains supportive of the DEB's ability to discipline dentists based on any practices that

are determined to be outside of the standard of care which means that if a dentist is found to be administering medication in excess of what is necessary, the WDA believes the DEB should take appropriate disciplinary action.

Dentists in Wisconsin should be trusted to utilize their professional judgment in a manner that allows them to develop individual medication and treatment protocols to fit the needs of each patient who presents for treatment in their office.

**The WDA urges the membership of the Assembly Health Committee to support the ability of a licensed dentist to utilize his/her professional judgment by voting in support of passage of AB 37.** Thank you for your time and consideration of this request and I would be happy to take any questions. For more information, please feel free to call Mara Brooks of the WDA Madison office at #250-3442.

## **Joint Committee for Review of Administrative Rules**

Office of Sen. Robert Jauch  
Office of Rep. Daniel LeMahieu  
Phone: 608.266.3510  
Phone: 608.266.9175

- CR 04-095

### **Report to the Legislature Clearinghouse Rule 04-095**

#### **The Joint Committee for Administrative Rules**

Produced pursuant to 227.19(6)(a), Stats.

Clearinghouse Rule 04-095 is an order to repeal and recreate dental rules relating to the requirements for administering the office facilities and equipment for safe and effective administration and the applicable standards of care, and to provide for reporting of adverse occurrences related to anesthesia administration.

#### **Description of the Problem**

Wisconsin Statutes, section 447 indicates that a dentist may be permitted to induce general anesthesia or conscious sedation. Clearinghouse Rule 04-095 is an attempt by the Dentistry Examining Board to develop standards for the safe and effective administration. The Department of Regulation and Licensing (DRL) held a public hearing on November 3, 2004 at which time they received objections related to conscious sedation. CR 04-095 was given a hearing by the Senate Committee on Health, Children, Families, Aging and Long Term Care and on December 14, 2005 voted 5-0 to request modifications, specifically, a change to the Advanced Cardiac Life Support training and the Pediatric Advanced Life Support training, and to DE 11.09(7) which limited a dentist's ability to provide multiple doses, (or to titrate) of a drug during a dental appointment.

*DE 11.09(7) only dentists who hold a class 1,2, or 3 permit may administer multiple doses of oral medications on any given treatment day provided that the maximum recommended dose of that medication is not*

*exceeded and that the minimum time between doses is not less than the time necessary for the medication to reach its peak plasma level.*

The DRL and the Dentistry Examining Board sent a revised rule to the Senate Health committee on February 7, 2006 which included a change to the Advanced Cardiac Life Support training and the Pediatric Advanced Life Support training. However, the rule did not include the requested modification on titration. On February 11, 2006, The Senate Health committee voted 5-0 to partially object to the rule, specifically DE 11.09(7).

#### **Arguments in Favor of Objection**

- Maximum doses may not achieve sedation.
- It may force dentists to administer maximum doses of sedation at the start of an appointment rather than starting with a safer, lower dose.
- The American Dental Association guidelines allows for exceptions to exceed maximum dosage in "unusual circumstances".
- Oral conscious sedation drugs are reversible without I.V.
- The rule may deny care for those who might need more medication, or might require a longer appointment that would also require more medication.

#### **Arguments Against Objection**

- The Dentist Examining Board (DEB) found that most dentists in Wisconsin who practice oral conscious sedation learned to do so from a relatively new and unproved course.
- An expert from the Marquette School of Dentistry said Marquette does not teach titration procedures, nor does any other dental school in the United States.
- Patients could progress into a deeper level of sedation than a dentist intended, maybe even after leaving the dentist office.
- Putting "unusual circumstances" language in the rule would make a loophole that would make the rule unenforceable.

**Action by Joint Committee for Review of Administrative Rules**

On April 18, 2006, the Joint Committee for Review of Administrative Rules held a hearing and an executive session on Clearinghouse Rule 04-095. The committee passed a motion 5-4, that pursuant to s.227.19(4)(d) 6. and (5)(d), Stats. to concur in the objection to s. DE.11.09(7) of Clearinghouse Rule 04-095. On May 3, 2006, the Joint Committee voted to introduce LRB 4962/1 and 4963/1 which prohibit the dental examining board from promulgating a rule limiting dosage of oral conscious sedatives.

